



Texas Department of Insurance

Division of Workers' Compensation

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4001 fax • www.tdi.texas.gov

Memorandum

To: Workers' Compensation System Participants

From: Tracey Beaver, Director of the Office of Workers' Compensation Counsel

Date: October 6, 2014

Subject: Proposed Rule: New 28 TAC §131.1 regarding Initiation of Lifetime Income Benefits; Notice of Denial.

The Division of Workers' Compensation is accepting comment on a proposed new §131.1 regarding Initiation of Lifetime Income Benefits; Notice of Denial.

The proposal will be published in the October 10, 2014, issue of the *Texas Register* and may be accessed at <http://www.sos.state.tx.us/texreg/index.shtml> once published. A courtesy copy is also available on the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/rules/proposedrules/index.html>. The public comment period closes Monday, November 10, 2014, at 5:00 p.m. CST. Comments received after the comment deadline will not be considered.

A public hearing is not scheduled at this time. A request for a public hearing must be submitted separately from public comment. The request for a hearing must be submitted by Monday, November 10, 2014 by 5:00 p.m. CST. A request for a public hearing received after the deadline will not be considered. If a hearing is held, written and oral comments presented at the hearing will be considered.

Public comments or a request for a public hearing may be submitted by e-mailing rulecomments@tdi.texas.gov or by mailing or delivering the comments to:

Texas Department of Insurance, Division of Workers' Compensation
Maria Jimenez
Workers' Compensation Counsel MS - 4D
7551 Metro Center Drive, Suite 100
Austin, Texas 78744 -1645

The Division is seeking formal comments on new 28 TAC §131.1, which:

- requires that an insurance carrier must review an injured employee's eligibility for lifetime income benefits (LIBs) in a timely fashion, including when an injured employee requests LIBs, and must review all of the statutory criteria;
- outlines the timeframes for determining LIBs eligibility in situations where an injured employee requests LIBs in writing, as well as timeframes for the payment of LIBs after the insurance carrier reasonably believes the injured employee is eligible;

- ensures that if the insurance carrier denies LIBs eligibility, communication between the insurance carrier and the injured employee will be consistent, documented, and that all parties will be informed of their right to initiate dispute resolution; and
- retains the statutory eligibility requirements for LIBs.

The Division is posting two options for plain language denial notices for public comment simultaneously with this rule. The first option is amended PLN-04, Notice Regarding Eligibility for Lifetime Income Benefits, which includes a denial notice to conform to the proposed rule. The second option is a separate plain language denial notice with new PLN-13, Notice of Denial of Lifetime Income Benefits (LIBs) and Refusal to Pay Benefits. Additional information and the draft forms are on the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/rules/proposedrules/index.html>.